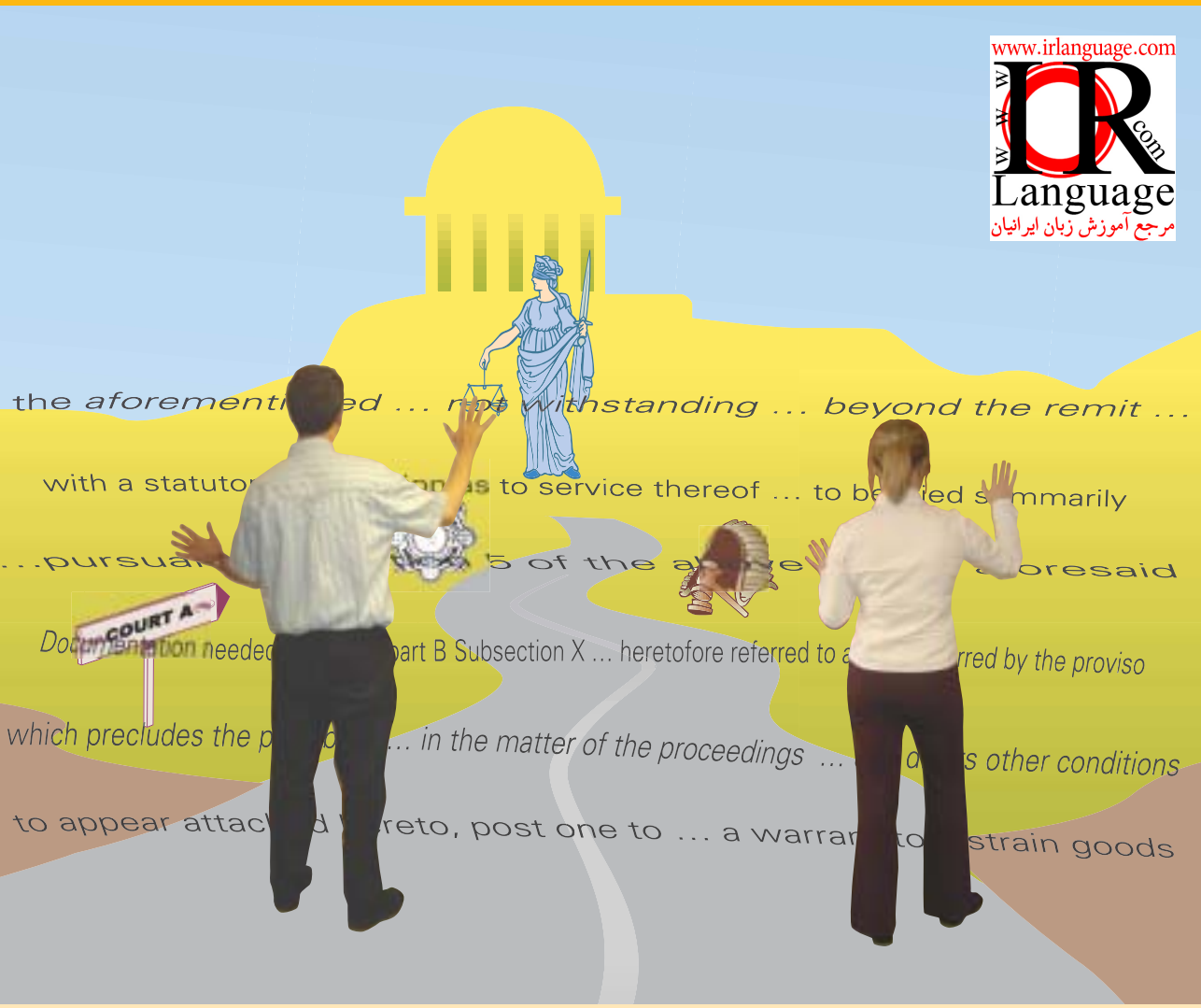
A Plain English Guide to Legal Terms



National Adult Literacy Agency
An Áisíneacht Náisiúnta Litearthachta do Aosaigh

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Introduction

The language used in law is changing. There are many legal phrases that non-lawyers don't understand. This guide is intended to help non-lawyers understand legal phrases and to give lawyers guidance in explaining the legal phrases they use. Although it comprises over 60 pages with over 1,400 words explained, this is not a complete dictionary of legal terms in use in Ireland.

The explanations in this guide are not intended to be alternatives. Lawyers will continue to use legal phrases when necessary. This publication is designed to explain ideas and concepts rather than to give legal definitions.

We invite your suggestions for additions. Please e-mail us at literacy@nala.ie with your ideas.

The National Adult Literacy Agency (NALA) would like to thank Patrick O'Connor, B.C.L., LL.B., Solicitor of Swinford, County Mayo who edited the legal content of the guide. He was President of the Law Society of Ireland in 1999.

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- Kieron Wood for making available 'Glossary of legal terms' from his website (http://welcome.to/barrister) as a reference point from his website.
- The Office of the Director of Public Prosecutions for their 'Glossary of Legal terms'.

A Plain English Guide to Legal Terms

A

Ab initio*
From the beginning.

Abandonment
Giving up a legal right.

Abatement
- Cancelling a writ or action;
- stopping a nuisance;
- reducing the payments to creditors in proportion if there is not enough money to pay them in full; or
- reducing the gifts in a will, in proportion, when there is not enough money to pay them in full.

Abduction
Taking someone away by force.

Abovementioned
Describing something which has been referred to before in the document.

Abrogation
Annulment; repeal (of a law)

Abscond
When a person fails to present themselves before the court when required.

Absolute
Complete and unconditional.

Absolute owner
The only owner of property

Absolute privilege
A defence which can be used in a case of defamation if the statement from which the defamation arose was: made in either house of the Oireachtas (Dáil or Seanad) in fair and accurate news reporting of court proceedings; or made during court proceedings.

Abstract of title
A document summarising the title deeds to a property.

Please note:
Words marked * are Latin in origin
Words marked † are French in origin

Abuse of process
When court proceedings are brought against a person without any good reason and with malice.

Abuttals
The parts of the boundaries of a piece of land which touch land alongside.

Acceptance
When an offer is accepted unconditionally a legally binding agreement is created.

Acceptance of service
When a solicitor accepts court proceedings on behalf of a client.

Acceptor
The organisation which will pay the cheque or bill of exchange it has accepted.

Accessory
Someone who encourages or helps another person to commit a crime.

Accomplice
Someone who helps another person to commit a crime.

Accounts
The record of spending and financial situation.

Accumulation
Reinvesting income generated by a fund back into the fund.

Accused
The person charged with a criminal offence.

Acknowledgement
Admitting that someone has a claim or admitting that a debt exists.

Acquiescence
Action or inaction which legally binds someone.

Acquit
When a court lets a person go without any penalty. If a court decides that a person is not guilty of a crime, or the case has not been proved, it will acquit the person.

Acquittal
The court's decision that a person is innocent of the crime they were charged with.

Act of bankruptcy
An act which, if carried out by a person with debts, could have led to bankruptcy proceedings against that person.

Act of God
An event resulting from natural causes without human intervention (such as floods or earthquakes).

Action
Proceedings in a civil court.

Active trust
A trust where the trustees have other responsibilities rather than to just let the beneficiaries have the trust's assets when they ask for them.

Actual loss
An insurance term which means that the insured item no longer exists.

Actuary
An expert on pension scheme assets and liabilities, life expectancy and probabilities (the likelihood of things happening) for insurance purposes.

Actus reus*
An act which is illegal,

Ad hoc*
For a particular purpose.

Ad idem*
In agreement.

Ad infinitum*
Endlessly or forever.

Ad interim*
For the time being.

Ad valorem*
In proportion to the value.

Additional voluntary contribution (AVC)
Extra money people in occupational pension schemes can pay in to increase their pension benefits.

Ademption
When a gift in a will cannot be made because the item no longer exists.

Adjourned sine die
When a court case has no date fixed for it to continue.

Adjournment
Postponing a court hearing.

Adjudge
To give an official judgement about something.

Adjudication
Formal judgment or decision of a court.

Administrative law
Law which applies to hearings before quasi-judicial or administrative tribunals.

Administrator
Someone who has been appointed to manage the estate of someone who has died without leaving a will.

Admissibility of evidence
Evidence which can be presented in court.

Admission
One side in a case agreeing that something the other side has alleged is true.

Admonition
Reprimanding of a defendant by a judge.

Adoption
The system which people use to become parents even though they are not the child's natural parents.

Adoptive child
A child who has been legally adopted.

Adoptive parent
A person who has legally adopted a child.

ADR
Alternative dispute resolution such as arbitration, mediation and conciliation.

Adverse possession
Occupying of land, without legal title for long enough – normally 12 years – to be recognized as the legal owner ("squatter's rights").

Adverse witness
A witness who gives evidence which damages the case of the side which asked the witness to testify for them.

Advocate
The lawyer who speaks in court for a client.

Affidavit
A written statement which is sworn to be true by the person signing it.

Affirm
Solemnly promise to tell the truth in court or in an affidavit.

Affirmation
Solemnly promising to tell the truth when giving evidence.

Affray
Fighting unlawfully.

Aforementioned
Describing something referred to previously in a document.

Aforesaid
Describing something which has been said or referred to before in a document.

Age of consent
The age when a girl can consent to have sexual intercourse.

Agency
The relationship between a principal and an agent.

Agent
Person with power to contract or act on behalf of others.

Aggravated assault
A serious type of assault.

Aggravated damages
Exceptional damages awarded by a court where a defendant's behaviour towards the plaintiff or victim has been particularly humiliating, malicious or vindictive.

Aider and abettor
One who advises or encourages the commission of a crime.

Aiding and abetting
Helping someone to commit a crime.

Airspace
The space in the atmosphere directly above a piece of land.

Alias
A false name.

Alien
Someone from a foreign country.

Alienation
Transferring the ownership of property from one person to another.

All and sundry
Everybody.

All that
Words used in a conveyance to introduce the description of the property which is being transferred.

Allegation
An unproved statement declaring that something has happened.

Alleviate
To lessen.

Allocation rate
The proportion of money left to be invested after charges have been taken off when money is paid into a fund.

Allotment
Shares allocated to a buyer.

Alternate director
A person appointed by a director to take the director's place.

Alternative dispute resolution
Method by which disputes are resolved, other than through litigation, usually by mediation or arbitration.

Alternative verdict
A person being found guilty of a less serious crime than the one they were charged with.

Amalgamation
Two or more companies combining.

Ambiguity
Capability of more than one meaning.

Ambulatory will
A will which can be revoked or changed while the person who made it is still living.

Amicus curiae*
Advisor to the court on a point of law who is appointed by the court to represent a person.

Amnesty
Not punishing a person for an offence committed.

Ancient lights
The right not to have the light you receive from a neighbour's land blocked.

Annual accounts
The summary of financial transactions during the year.

Annual general meeting
The yearly meeting of the members of an organisation.

Annual return
A return which must be sent by a company to the Registrar of Companies each year.

Annuitant
The person who gets paid a yearly amount.

Annuity
An amount paid out every year to someone.

Annul
Cancel.

Ante*
Before.

Antecedents
Details about the past of a defendant or a person.

Antedate
A date before a document was drawn up.

Antenuptial agreement
A legal agreement between two people who are to get married.

Anton Piller order
An order by the Court which gives the applicant permission to search the defendant's premises for evidence, inspect it and take it away.

Appeal
Challenge to a court decision in a higher court.

Appearance
The act of replying to a summons or turning up in court and accepting its jurisdiction to proceedings.

Appellant
The person who is appealing to a court against a decision of a lower court.

Appellate jurisdiction
The authority a court has to hear an appeal against a decision made by a lower court.

Applicant
The person asking a court to do something.

Appointee
The person who gets the benefit of the use of a power of appointment.

Appointor
The person who uses a power of appointment.

Apportionment
Division of rights and liabilities.

Appurtenances
Minor rights in land.

Arbitrage
Borrowing money at a low rate of interest to lend out again at a higher rate.

Arbitration
Settling a dispute by using a referee.

Arbitrator
Referee who settles a dispute without the need to use the courts.

Arraignment
Procedure for calling accused before court to answer charges and to say whether he or she is guilty or not guilty.

Arrears
Accumulated debt which has not been paid on the due date.

Arrest
To seize someone suspected of committing a crime and take them into custody.

Arson
Setting fire to something to cause damage to it.

Articles
The clauses in a document.

Articles of association
The document which set out a company's rules.

Assault
Touching – or threatened touching – of another person without that person's consent.

Assent
A document used by personal representatives to transfer property to a beneficiary.

Asset
Something owned

Assign
Transfer.

Assignment
The formal transfer of the rights to something.

Assurance
Insurance cover for an event which will definitely happen such as death.

Assure
Transfer the ownership of something.

Assured
The person whose life is insured or who is entitled to receive the benefit from the assurance cover.

Attachment and committal
Bringing a person before court with threat of imprisonment for failure to obey the court's order.

Attachment of earnings
A court order that deductions be made from a person's earnings.

Attachment
Procedure by which judgement on property maybe enforced.

Attest
To witness a signature on a document.

Attestation
Authentication of an act or document by a witness.

Attorney
A person appointed to act for another person.

Attorney General
Legal adviser to the Government.

Audi Alteram Partem*
Hear the other side.

Audit
An independent examination of records and financial statements.

Auditor's report
A report and opinion by an independent person or firm on financial records.

Auterfois convict*
Formerly convicted. One may not be convicted twice for the same offence.

Authentication
Verification of document for legal purposes.

Authorised investments
Investments in which a trustee is permitted to invest trust money.

Authorised share capital
The highest amount of share capital that a company can issue.

Autopsy
An examination of a dead body to find the cause of death.

Averment
Positive factual allegation in an affidavit.

B

Bail
To pay, or promise to pay, an amount of money so that an accused person is not put in prison before the trial.

Bailee
A person looking after items to keep them safe for the owner.

Bailiff
An officer of the court who carries out the court's orders.

Bailiwick
The area over which a bailiff has jurisdiction.

Bailment
Transferring possession of goods from the owner to someone else.

Bailor
The owner of goods which are in the possession of another person for safekeeping.

Balance sheet
Summary of a financial position.

Banker's draft
A cheque drawn by a bank on itself.

Bankrupt
Someone who has had a bankruptcy order made concerning him.

Bankruptcy order
An order that a court issues against someone if they cannot pay their debts when they are due to be paid.

Bankruptcy search
A document which states whether or not someone is bankrupt.

Bar
The collective term for barristers. When a person becomes a barrister it is called 'being called to the bar'.

Bare trust
A trust which holds property on behalf of a person until they ask for it back.

Bare trustee
Someone who holds property on behalf of another person until asked to return it.

Bargain and sale
A contract to sell any property or investment in land that a person owns.

Barrister

A member of one branch of the legal profession who advises clients, generally works in the courts, and who receives instructions from a solicitor. Barristers do not normally deal with members of the public.

Barter

A way of paying for things by exchanging goods instead of using money.

Battery

Using physical force on someone either intentionally or without their agreement.

Bearer

Person who has a document in their possession.

Bench

The name for the judges in a court.

Bench warrant

A warrant issued by a court for the arrest of an accused person who has failed to attend court.

Beneficial interest

Belonging to a person even though someone else is the legal owner.

Beneficial owner

The actual owner of property.

Beneficiary

Someone who benefits from a will, a trust or a life insurance policy.

Bequeath

To give something to a person in a will.

Bequest

Something given in a will.

Bigamy

The offence committed by someone who is already married but still goes through a marriage ceremony with someone else.

Bill of costs

The account a solicitor sends to a client giving details of any outlay the solicitor has paid on behalf of the client, the fee charged and expenses.

Bill of exchange

A signed written order instructing the person to whom it is addressed to pay an amount of money to someone. A cheque is a type of bill of exchange.

Bill of lading

A document recording the goods a ship carries and the terms the goods are carried under.

Bill of sale
A document which transfers ownership of goods from one person to another.

Binding effect
An agreement that must be kept to.

Binding over
An order by a court in a criminal case.

Binding precedent
Following the decisions made by higher courts.

Blackmail
Demanding payment from a person in return for not revealing something shameful about them.

Bodily harm
Physical injury or pain.

Bona fide*
In good faith.

Bona vacantia*
Goods or an estate belonging to nobody.

Bond
A written promise to repay a debt at an agreed time and to pay an agreed rate of interest on the debt.

Bonded goods
Goods for which a bond has been paid to the Revenue Commissioners (Customs and Excise) as security for the duty owed on the goods.

Bonded warehouse
A warehouse approved by The Revenue Commissioners (Customs and Excise) for storing goods imported into the country until the duty on them has been paid or the goods have been exported to another country.

Bonus shares
Free shares that a company offers to its shareholders in proportion to their existing shareholdings.

Book value
The value of a fixed asset, such as a building or machine, as recorded in the accounts.

Bought note
A document showing details of a purchase by someone for a third party. Stockbrokers produce bought notes for their clients.

Breach of contract
Failing to carry out a duty under a contract.

Breach of duty
Failing to carry out something which is required by law or doing something the law forbids.

Breach of trust
When a trustee does something which is against the trust's rules or fails to do something required by the trust's rules.

Break clause
A clause in a contract which allows it to be ended.

Brief
A document prepared by a solicitor which contains the instructions for the barrister to follow when acting in court.

Building preservation notice
A notice that a building is listed.

Burden of proof
A rule of evidence that requires a party to a court action to prove something, otherwise the contrary will be assumed by the court. For example, in criminal trials, the prosecution has the burden of proving the accused guilty beyond a reasonable doubt.

Burglary
Entering a building without permission with the intention of stealing or doing damage.

Bye-law or bylaw
A law made by a local authority or an organisation which has power to do so.

C

Call
Asking people to pay for new shares they have applied for.

Called-up capital
All the shares called by a company when it issues shares.

Canon law
The name for the rules used for governing a Christian church.

Capacity
Someone's ability to enter into a legal agreement.

Capital allowances
Allowances that you can sometimes claim when you buy long-term assets to use in your business.

Capital gain
The profit you make if you sell or dispose of an asset for more than it cost you.

Capital gains tax
A tax charged on a capital gain.

Capital punishment
Punishing someone for a crime by killing them.

Capital redemption reserve

A company has this reserve in its financial records if any of the shares it has issued are cancelled.

Care order

An order by a court instructing a local authority to care for a child.

Careless driving

Driving a car without consideration for other people.

Cartel

An agreement between businesses to restrict competition and keep prices high.

Case law

Law that is based on the results of previous court cases.

Case stated

The written statement setting out the facts of a case.

Causation

One thing being done causing something else to happen.

Cause of action

The reason someone is entitled to sue someone else.

Caution

A warning given by a Garda to a suspected criminal when he is arrested; a document sent to the Land Registry by someone who may have a right over land, which requests that no dealings in the land are registered until the person with the right has been told.

Caveat*

A formal warning.

Caveat emptor*

'Buyer beware'.

Central Criminal Court

The High Court sitting to deal with serious criminal offences such as rape and murder.

Certificate of incorporation

A certificate stating that a company has been incorporated.

Certificate of origin

A certificate stating in which country the goods being imported were made.

Certiorari*

An order by the High Court that a case should be reviewed.

Challenge for cause

When the defence objects to a juror and says why it objects.

Challenge to a jury
When either side in a case objects to the people who have been selected to serve on the jury before they are sworn in.

Challenge without cause
When a person objects to a juror but does not say why.

Chambers
Judge's personal rooms where cases may be heard in private or “in camera”.

Charge
Formally accuse someone of committing a crime; Use property as security for a debt (such as a mortgage); or a direction given by a judge to tell the jury what they must do.

Charge certificate
A certificate which the Land Registry issues to the lender who has lent money on the security of registered land.

Charge sheet
The document on which a garda records details of the accusation against a suspect.

Chargeable event
An event that may create a tax liability.

Chargeable gain
A gain on which capital gains tax is payable.

Charges clause
A clause which appears in some contracts and sets out who should pay for certain items.

Charging clause
Trustees can charge the trust for their services if there is a charging clause.

Charging order
A court judgement which a creditor may get against the person or organisation which owes the money giving the creditor security over the debtor's property for repayment of the debt.

Charity
An organisation set up to do good for the community.

Chattel
Any property except freehold land.

Chattels personal
The name for goods which can be touched such as watches, clothes and furniture.

Chattels
Moveable property.

Cheat
A person who fails to send tax returns to the tax Revenue Commissioners or fails to pay the tax owing.

Cheque
A written order addressed to a bank instructing the bank to pay an amount of money to the person or organisation named on the cheque.

Cheque card
A card issued by a bank to a customer.

Child abuse
Molestation or ill-treatment suffered by a child.

Child Support Maintenance
The amount of maintenance the parent not living with their child must pay.

Child
Person under 18.

Children in care
Children looked after by a local authority.

Chose
An item of property.

Chose in action
A right such as a patent, or a right to recover a debt.

Chose in possession
An object which physically exists, such as furniture.

Circuit Court
Court above the District Court and below the High Court, with power to award damages up to €38,000 (as at September 2003) and deal with most criminal cases.

Circuit judge
A judge who is in charge of cases in the Circuit Court.

Circumstantial evidence
Evidence which suggests a fact but does not prove the fact is true.

Citation
Quoting from a completed case to support an argument; or a notice sent out by someone wanting grant of probate or letters of administration asking people to come forward if they object to it.

Citizen's arrest
An arrest by someone who is not a Garda. The offence must be in the course of being committed or have already been committed when the arrest is made.

Civil court
A court which does not hear criminal cases.

Claim
Apply for a right; demand a remedy; or an application for something such as a right.

Claimant
The person making a claim.

Class action
Legal action taken by a number of different persons where the facts and the defendants are similar.

Clause
A section in a contract.

Clayton's Case
This case established a presumption that money withdrawn from an account is presumed to be debited against the money first deposited "first in, first out".

Clearing bank
One of several major banks which work together to exchange and pay for cheques which their customers have written.

Close company
A company controlled by a few people or by its directors.

Closing order
An order prohibiting the use of a licenced premises when the owner has been convicted of certain crimes.

Codicil
Amendment to or addition of an existing will.

Codifying statute
A statute used to bring together all the law on a particular subject.

Coercion
A defence that a crime was committed because the person accused was forced to do it.

Cognisance
Notice.

Collateral
Extra security for a debt.

Collusion
Illegal and usually secret agreement between two or more people to deceive a court or defraud another person.

Commissioner for Oaths
A person appointed by the Chief Justice to administer the swearing of oaths.

Committal for sentence
When judges have found someone guilty of a crime but they think their sentencing powers are not enough.

Committal for trial

When a judge looks at the evidence in a case and then sends the case to be heard in the Court.

Committal order

An order used to send someone to prison for contempt of court.

Committal proceedings

A court hearing where a District Judge decides if there is enough evidence of a serious crime to justify a trial by jury.

Committee of inspection

A committee appointed from the creditors of a company in liquidation to oversee the liquidator's work.

Common duty of care

The duty of the occupier of premises or land to take reasonable care of visitors to make sure that they are kept safe.

Common law

Judge made law which has developed over centuries, also referred to as “unwritten law”. Common law (as practised in Ireland, England and the USA) is often contrasted with civil law systems (as in France or Germany) where laws are set down in a written code.

Common seal

The seal companies use to validate important company documents.

Commorientes*

Closely related people who die at the same time and it is unclear which of them died first.

Community service order

An order to do work in the community without pay.

Company secretary

A person appointed by the directors of a company who is responsible for making sure that the company complies with the Companies Acts.

Company

Legal entity which permits a group of shareholders to create an organization to pursue set objectives.

Compensation

Money paid to make up for damage, injury or loss caused.

Compensation for loss of office

Compensation an employer pays to an employee whose contract has been ended.

Compensation order

An order by a court to a criminal to compensate the victim of the crime.

Completion
Transferring property in exchange for payment.

Compos Mentis*
Of sound mind.

Composition with creditors
An arrangement between a debtor and the creditors.

Compulsory purchase
Taking land when it is needed for a public project, such as roads or housing.

Compulsory winding up
The liquidation of a company by order of the court.

Concealment
Failure to disclose information which the other side would need to consider when deciding whether or not to go ahead with a transaction.

Concealment of securities
Hiding or destroying a document to gain benefit for yourself or cause other people loss of benefit.

Conclusive evidence
Evidence which cannot be disputed.

Concurrent sentence
When someone is sentenced for different crimes and the sentences are to be served at the same time.

Condition
A fundamental part of an agreement.

Condition precedent
Something which must happen before an agreement starts.

Condition subsequent
Something which may happen in the future.

Conditional agreement
An agreement which depends on a certain thing happening in the future.

Conditional discharge
A court may decide not to punish a criminal immediately for an offence and may conditionally discharge the criminal instead.

Conditional sale agreement
An agreement by which the seller remains the owner of the goods until all the instalments have been paid and all other conditions have been met.

Consecutive sentence
When someone is sentenced for different crimes and the sentences have to be served one after another.

Consent
To agree to something.

Consent Order
Court order agreed between both sides.

Consideration
The price or value.

Consign
To leave property in the custody of another.

Consignee
The person goods have been sent to.

Consignor
The person who sent the goods.

Conspiracy
Combinations of persons for an unlawful purpose.

Construction
Legal process of interpreting a phrase or document.

Constructive
Describing something which may not be set out in the law but will nevertheless be considered to exist.

Constructive dismissal
Because the employer has broken fundamental terms of the contract of employment the employee has been forced to resign.

Constructive notice
Presuming something is known.

Constructive trust
Trust imposed by a court in certain circumstances regardless of the intention of the parties involved.

Contempt
Deliberate disregard of a court order.

Consumer credit agreement
An agreement by a creditor to provide credit to a consumer.

Contemporaneous
Existing at the same time

Contempt of Court
Disobeying a court order; abusing a judge during a court case; or interfering in the administration of justice.

Contemptuous damages
A small amount of damages.

Contingency fee
The claimant's lawyer gets paid the fee only if the case is won.

Contingent legacy
A gift in a will which will only be made if certain conditions are met.

Contract
An agreement between two or more people to do or not to do something.

Contract for services
A contract under which materials and services are provided.

Contract of exchange
A contract to exchange goods or property without money being involved.

Contract of service
The contract between employer and employee.

Contributory negligence
Ones own carelessness contributing to the damage done to you or your property.

Conversion
Exchanging one sort of property for another or acting unlawfully to deprive someone of their ownership of goods.

Convey
Transfer.

Conveyance
The name of the document which transfers the ownership of land.

Conveyancing
Carrying out all the actions needed to transfer the ownership of a piece of land.

Conviction
Being found guilty of a criminal offence.

Copyright
A legal right which stops things being copied without permission.

Coroner
A judicial person who investigates the cause of death when a person has suffered a sudden, violent or suspicious death.

Corporate body (or corporation)
A group of people acting together such as a club.

Corporation tax
A tax which companies pay.

Corpus*
A body.

Corpus delicti*
The body of a person who has been killed unlawfully; or the facts which make up an offence.

Costs
The legal expenses of an action, such as lawyers' fees, witness expenses and other fees paid out in bringing the matter to court.

Counsel
An advocate – usually a barrister or a solicitor.

Counterclaim
Making a claim in court against someone who has already made a claim against you.

Counterfeit
Something that is forged or copied with the intention of deceiving.

Counterpart
An exact copy of a document.

Coupon
A dated piece of paper attached to a bond.

Court of Appeal
A court which hears appeals against the decisions of other courts.

Covenant
A legally binding promise.

Creditor
A person you owe money, goods or services to.

Creditors' voluntary winding up
If a company is insolvent (cannot pay its debts when they are due for payment) the members can pass a special resolution to have the company wound up (liquidated).

Crime
Act or omission forbidden by criminal law.

Criminal damage
The criminal offence of causing damage to someone else's property either recklessly or intentionally.

Criminal responsibility
When someone reaches the age when the law says they are able to commit a criminal offence they have reached the age of criminal responsibility.

Cross-examine
To question a witness for the other side.

Culpa*
A fault.

Cum dividend
With dividend.

Curfew
Ordering someone to stay at a named place at stated times of the day or night.

Curtilage
Land around a dwelling house used by the occupants for their enjoyment or work.

Customs duties
Duties which are charged on imports of goods.

D

Damages
Financial compensation ordered by a court to offset losses or suffering caused by another person's action or inaction.

Dangerous driving
A standard of driving which falls far below that of a careful, competent driver and it would be obvious to such a driver that it was dangerous to drive that way.

De facto*
In fact or in reality.

De jure*
Rightfully.

De minimis non curat lex*
The law will not take account of trifling matters.

De novo*
From the beginning, anew.

Debenture
A document issued by a company which acknowledges that some or all of the company's assets are security for a debt

Debt
Money owed.

Debt securities
Debts which can be bought and sold.

Debtor
Person who owes money, goods or services to a creditor.

Deceit
When one person deliberately misleads a second person with a statement which causes the second person to do something that causes them damage.

Decree
Order by a court.

Decree absolute
The final court order.

Decree nisi*
A provisional court order.

Deed
A legal document which commits the person signing it to something.

Deed of arrangement
A written agreement which can be made when a debtor is in financial trouble between the debtor and the creditors.

Defamation
Making a statement, either orally (slander) or in writing (libel) which damages someone's reputation.

Default
Failing to do something which had been agreed to.

Defence
The name for the lawyers defending proceedings brought against someone. It is also in a civil case, a written statement by the defendant setting out the facts that the defence will rely on.

Defendant
A person defending a court action.

Delegatus non potest delegare*
A delegate cannot delegate.

Dependant
Someone who depends on someone else for support.

Deponent
A person who swears on oath that a statement is correct.

Deposition
A statement by a witness made under oath.

Depreciation
The drop in value of an asset due to wear and tear

Derogation
Damaging someone's rights or entitlements.

Descendant
Persons born of or from children of another.

Determination
End or finish.

Detinue
A right involving the defendant's retention of property belonging to the plaintiff after the plaintiff has demanded its return.

Devise
Gift of real property by will.

Diminished responsibility
A defence sometimes used for someone charged with murder that they suffered lowered powers of reasoning and judgement because of their unusual state of mind.

Diocese
The area covered by a Bishop's authority.

Diplomatic immunity
Immunity given to certain members of foreign embassies, such as ambassadors, for crimes they may have committed.

Direction/directing
Judges must give juries instructions on points of law. This is called directing the jury.

Director
A person appointed to help manage a company's affairs.

Director of Public Prosecutions
Independent official, a lawyer who decides whether to prosecute in criminal cases and in whose name a criminal prosecutions are taken.

Disbursement
A payment made on behalf of a client.

Discharge
Release from.

Disclaim/disclaimer
To give up a claim or a right or refuse to take over a contract.

Discretionary trust
A trust in which the trustees can decide who will benefit from the trust and how much they will get.

Disposal (dispose of)
Selling, transferring or giving away.

Distrain/distress
To seize goods as security for an unpaid debt.

Distraint
Seizure of personal property to compel a person to fulfil a legal obligation.

District Court
First court in the Irish judicial system, with power to award damages up to €6,349 (as at September 2003) in civil cases, and to deal with most minor criminal cases.

District Judge
Judge of the District Court.

Dividend
Proportionate distribution of profits made by a company in the form of a money payment to shareholders.

Divorce
The legal end to a marriage.

Doli Incapax*
A person under the age of 14 but older than 7 is presumed to be doli incapax but this presumption is open to rebuttal: Under the age of 7 the child is incapable of committing the offence.

Domicile
The country where your permanent home is even if you are living somewhere else.

Domicile of choice
The country in which you make your home intending it to be permanent.

Domicile of origin
The domicile a newborn child has.

Domiciled
permanently based in a country.

Dominant tenement
Property or land that benefits from an easement such as a right of way.

Donatio mortis causa*
Gift made by a dying person with the intent that the person receiving the gift shall keep it if the
donor dies from his existing complaint.

Donee
Beneficiary of a trust or person given a power of appointment.

Donor
Person who gives property for the benefit of another.

Drawee
The person who will pay a bill of exchange such as a cheque. In the case of a cheque the drawee is the bank that the cheque is drawn on.

Drawer
The person that has written a bill of exchange, such as a person who has written a cheque.

Duces tecum*
Type of witness summons which requires a person to appear before a court with specified documents.

Duress
Threatening or pressurising someone to do something by force.

Duty
A tax charged by the Government.

E

Easement
A right to use someone else's land such as a right of way.

Emolument
Wages, benefits or profits received as compensation for holding office or employment.

Enabling legislation
Legislation which authorises bodies to create detailed rules to accomplish general principles set out in that legislation.

Endorsement of claim
Summary of the facts supporting a legal claim.

Endorsement
Writing on a document.

Endowment policy
A type of insurance policy which will pay out a lump sum on a fixed date in the future, or when you die, if this happens earlier.

Endowment
Transfer of money or property to a charitable organisation for a specific purpose.

Enduring power of attorney
A power of attorney which takes effect in the future. A person capable of dealing with their own affairs at present can sign an enduring power of attorney. It will come into effect when they are no longer capable of looking after their own affairs. It gives authority to the person appointed to act for the person who signed the power of attorney.

Engrossment
The final version of a document ready for it to be signed.

Equitable mortgage
A type of mortgage

Equity
The principles of equity are based on fairness.

Escrow
A deed which has been supplied but cannot become effective until a future date or until a particular event happens.

Estate
All a person owns at the date of their death; or the right to use land for a period of time.

Estimate
A guide to do stated work for a set price.

Estoppel
A rule of law that a person cannot deny something they previously said if someone else acted on what was said and their position was changed as a result.

Et seq*
and in the following pages.

Euthanasia
Killing someone to end their suffering.

Evidence
Testimony of witnesses at a trial or the production of documents or other materials to prove or disprove a set of facts.

Ex aequo et bono*
Most legal cases are decided on the strict rule of law but where a case is decided ex aequo et bono the judge may make a decision based on what is just and fair in the circumstances.

Ex parte*
Court application made without notice to the other side.

Ex* dividend
Without dividend.

Ex gratia*
Describing something done or given as a favour rather than a legal obligation.

Ex turpi causa non oritur actio*
A person may not sue for damage arising out of an illegal activity.

Ex* works
Available from the factory.

Examination-in-chief
Questioning of a witness by the party who called that witness. After the examination-in-chief, the other side's lawyer may question the witnesses in cross-examination. The first party may re-examine them but only about issues raised during the cross-examination.

Excess of jurisdiction
Someone acting without authority.

Exchange of contract
Swapping identical contracts.

Excise duty
A type of tax levied on certain goods.

Exclusions
The things a contract does not provide cover for.

Exclusive licence
A licence under which only the licence holder has any rights.

Execute
To carry out a contract.

Executed
Describing a document which is made valid by being signed.

Executive director
A director who works full time as a director of the company.

Executor
Person appointed in a will to deal with an estate.

Executory
Describing something such as a contract which has not been started yet.

Executrix
A woman appointed in a will to deal with an estate.

Exemplary damages
Damages given as a punishment.

Exhibit
Document or object shown to a judge or jury as evidence in a trial.

Expert witness
An expert in a particular area who is called to give an opinion in a court case.

Express trust
Trust specifically created by a settlor usually in a document such as a will.

Extradition
The handing over of a criminal to the country the crime was committed in.

Extraordinary general meeting
A general meeting of the members of a company which is not the annual general meeting.

Extraordinary resolution
A resolution for consideration by the members of a company at a general meeting of the members.

Extraterritoriality
Operation of the laws of a state beyond the territorial limits of that state.

F

Factor
Someone buying or selling for a commission; or an organisation which provides finance for a business by advancing money on the value of the invoices the business sends out.

False imprisonment
Wrongfully keeping someone in custody.

False pretence
Misleading someone by deliberately making a false statement.

False representation
Lying in a statement to persuade someone to enter a contract.

Fee simple
Freehold estate in land.

Fee tail
Form of tenure that can only be transferred to a lineal descendant.

Feme covert†
A woman who is married.

Feme sole†
A woman who is not married or no longer married.

Fiduciary
In a position of trust.

Fieri facias*
A writ of fieri facias commands a sheriff to take and sell property to pay a debt owed by a judgment debtor.

Final judgement
The court's final decision in a civil case.

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Language
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Fitness to plead

Whether or not the person charged is capable of making an informed decision. If, because of mental illness, a person charged with an offence is unable to understand what is going on the person may not be fit to plead guilty or not guilty.

Fixed charge

A charge which provides security for money lent.

Floating charge

A charge used to provide security for money lent to a company.

Forbearance

When one party to an agreement does not pursue rights under the agreement even though the other party has not kept to its terms.

Force majeure†

An event which cannot be controlled and which stops duties under an agreement from being carried out.

Foreclosure

Repossessing property.

Forfeiture

The loss of possession of a property because the tenancy conditions have not been met by the tenant.

Fostering

Looking after other people's children.

Fraud

Lying or deceiving to make a profit or gain an advantage or to cause someone else to make a loss or suffer a disadvantage.

Fraudulent conveyance

Ownership of land being transferred with the intention of defrauding someone.

Fraudulent preference

Someone who is insolvent paying one of their creditors while knowing there is not enough money to pay the others.

Fraudulent trading

Running a business with the intention of defrauding its creditors.

Free of encumbrances

No one else having any rights over property.

Freehold

Describing land that only the owner has any rights over.

Freeholder

Person who owns freehold property rights.

Frustration

Stopping a contract.

Functus officio*
Having discharged his/her duty.

Futures contract
A binding contract to buy or sell something on a date in the future at a fixed price.

G

Garnishee
Person who owes a third party a debt which is attached by court order for the benefit of a judgment creditor.

Garnishee order
A court order to a third party who owes money to a judgement debtor to pay the money to the judgement creditor.

General damages
Damages a court will give to compensate for a wrong done.

General meeting
A meeting of the members of a company to make decisions about the company.

Goodwill
Intangible business asset based on the reputation of a business resulting from the attraction and confidence of repeat customers and connections.

Grant
Proof that you are entitled to deal with a dead person's estate.

Grant of probate
A Court certificate proving that the executors of a will are entitled to deal with the estate.

Gross negligence
Act or omission in reckless disregard of the consequences for the safety or property of another.

Guarantee
A promise by a person to repay a debt owed by a second person if the second person fails to repay it.

Guarantee company
A company whose members only have to pay the amount they have agreed to contribute if the company has to be wound up.

Guarantor
A person or organisation that promises to pay a debt owed by a second person, if the second person fails to repay it.

Guardian
A person appointed to look after the interests of a child or of someone who is not capable of looking after their own affairs.

Guardian ad litem*

A person who has authority to manage the person or property of a child or a person under mental disability for the purposes of a legal action.

Guilty

A court's verdict that the person charged with a crime committed it.

H

Habeas corpus*

A procedure to have a person brought before a court to enquire into the lawfulness of that person's detention.

Hearsay

Evidence of which a witness does not have direct knowledge from his own senses but which is based on what others have said.

Hearsay evidence

Evidence given in court of something said to the witness by another person.

Hereditament

Any property that can be inherited.

High Court

Court above the Circuit Court with full jurisdiction to decide all matters of law and fact.

Hire

To pay to borrow something for a period.

Hire purchase

A form of credit which allows the purchaser to have possession of the goods shown in the hire purchase agreement.

Holding company

A company which controls another company usually by owning more than half of its shares.

Hostile witness

A witness who refuses to testify in support of the person who called him or testifies in a way which differs from their previous statement.

I

In pari delicto*

If two parties are equally to blame for a situation a court could refuse to provide a remedy to either of them because they are in pari delicto.

In personam*

All legal rights are either in personam or in rem. An in personam right attaches to a particular person.

In rem*
In rem rights relate to property and are not based on any personal relationship.

Incorporeal
Intangible legal rights, such as copyrights or patents.

Incorporeal hereditament
Intangible property rights which may be inherited such as easements and profits *à prendre.*

Inculpatory
Incriminating.

Indenture
Deed executed by both or all parties.

Indict
Using legal means to officially accuse someone of committing an offence.

Indictable offence
An offence which can be tried by a jury in the Circuit Court.

Indictment
Formal written accusation initiating the trial of a criminal offence before a jury in the Circuit Court
the Central Criminal Court, the High Court or the Special Criminal Court.

Injunction
Court order that forbids a party to do something (prohibitory injunction) or compels him to do something (mandatory injunction).

Insolvent
Not able to pay debts as they become due.

Intangible property
Property which does not physically exist such as a patent.

Inter alia*
Among other things.

Inter partes*
Between the parties.

Inter vivos*
Between living persons.

Interest
A legal right to use property.

Interim order
Temporary court order of limited duration.

Interlineation
Addition to a document after it has been signed.

Interlocutory injunction
An injunction which lasts only until the end of the trial during which the order was sought.

Interlocutory judgement
A provisional judgement.

Interrogatories
Formal questions in a civil case from one side which the other side must answer under oath.

Intestacy
When someone dies without leaving a will.

Intestate
Person who dies without making a will.

Intimidation
Threatening or frightening someone into doing something.

Invitation to treat
An offer to receive an offer.

IOU
A written confirmation of a debt signed by the debtor which implies an undertaking to pay the sum owed at some future date.

Ipso facto*
By the mere fact.

Issue
The matter to be decided in a court action.

Issued share capital
Share capital which has been allocated to shareholders who have asked for shares.

J

Joinder of parties
Uniting parties as plaintiffs or defendents in a court case.

Joint and several liability
Liability of more than one person, under which each may be sued for the entire amount of damages due by all.

Joint lives policy
A life assurance policy on more than one person's life.

Joint tenancy
Two or more people having identical shares in land.

Joint will
A single will which two or more people make to cover all their estates.

Joyriding
Stealing a vehicle and then using it.

Judge
A person whose job is to adjudicate in court cases. Since 2002 Solicitors and Barristers can be appointed as judges to all the courts in Ireland (Supreme, High, Circuit and District).

Judge advocate
A lawyer who advises a military court which is trying an offence.

Judge Advocate General
A lawyer who is in charge of military justice.

Judge in chambers
A hearing by a Judge which is not held in open court.

Judgement
A decision by a court.

Judgement creditor
A person who is owed money who has been to court and obtained a judgement for the money owed.

Judgement debtor
A person who owes the money a court judgement says is owed.

Judgement in default
Getting a judgement because a person failed to do something.

Judgment
Verdict pronounced by a court of law.

Judicial discretion
A degree of flexibility about the way courts do things.

Judicial immunity
Immunity that a judge has from being sued for damages when acting as a judge.

Judicial precedent
The practice of lower courts following the decisions of higher courts.

Judicial review
Proceedings in which a court is asked to rule on a decision of an administrative body or quasi-judicial tribunal.

Judicial separation
A court order that two married people should live apart.

Junior barrister
A barrister who is not a Senior Counsel.

Junior counsel
Barrister who is not a Senior Counsel.

Jurat†
Memorandum at end of affidavit stating where and when it was sworn followed by the signature and description of person before whom it was sworn.

Jurisdiction
The territory in which a court can operate; or the power it has to deal with particular cases or the power it has to issue orders.

Juror
One of the people who are acting as a jury.

Jury
A group of people, usually 12, who review all the evidence in a court case and then come to a verdict.

Jury service
Serving on a jury.

Just and equitable winding up
A winding up ordered because fairness cannot be achieved for all the members of a company.

Justification
Claiming that a defamatory statement is true.

Juvenile offender
A person aged between 7 and 17 who has committed a criminal offence.

K

Kidnap
To take someone away by force against their will.

Kin
Relationship by blood.

King's Inns
The body responsible for educating and training of barristers in Ireland.

Knock for knock
An agreement between insurance companies that they will pay for their own policyholders' losses regardless of who was to blame.

Know-how
Expertise.

L

Land
- The buildings built on the land;
- the subsoil;
- the airspace above the land necessary for ordinary use of the land; and
- property fixed to the land.

Landlord
Owner of a building or land who leases the land, building or part of it to another person who is called the tenant or lessee.

Lawsuit
A claim made in a court of law.

Lay litigant
Non-lawyer who brings a legal action without the assistance of a barrister or solicitor.

Lease
A contract between the owner of a property and a tenant, giving the tenant sole use of the property for an agreed time.

Leasehold
Property held by a tenant with a lease.

Legacy
A gift left to someone in a will not including land.

Legal Aid Scheme
A scheme for paying legal costs out of public funds for people who cannot afford to pay for them.

Legal Aid
Government scheme providing advice or assistance from a Solicitor or Barrister free or at a reduced rate.

Legal professional privilege
Confidential communications between a lawyer and client may not be revealed in court unless the client waives the privilege. The communications must relate to court proceedings or intended litigation.

Legatee
The person who receives a legacy.

Lessee
The person a property has been leased to.

Lessor
The person who lets a property by lease.

Letter of credit
A letter one bank sends to a second bank asking them to pay money to a named person.

Letters of administration
An authority the High Court gives to a person to deal with a dead person's estate. It is given when someone dies intestate.

Liabilities
The debts that a person or organisation owes.

Liability
A debt or obligation.

Libel
A false statement made in writing or in some other permanent record.

Licence
An authority to do something.

Licensee
The holder of a licence to do something.

Lien
The right to keep possession of something owned by someone who owes a debt until the debt has been settled.

Life assurance policy (or life insurance policy)
A contract between the policyholder and the insurance company.

Life assured
The person whose life is assured by a life assurance policy.

Life imprisonment
A sentence given to a criminal to be imprisoned for the rest of their life.

Life interest
An interest which will pass to someone else when the present owner dies.

Life tenant
Someone entitled to use property for their life.

Life tenant
Beneficiary of a life estate.

Limitation of actions
The Statute of Limitations sets down times within which proceedings must be brought.

Limited company
A company which limits how much its members will have to pay if the company is wound up.

Lineal descendant
Direct descendant, the child of its parents.

Liquidated damages
Damages agreed beforehand by the parties to a contract in case one of them should later break the terms of the contract.

Liquidation
Sale of all the assets of a company or partnership by a liquidator and use of the proceeds to pay off creditors.

Liquidator
The person appointed to wind up a company.

Lis pendens*
Registration of a pending action against the owner of land.

Litigant
A person involved in a lawsuit.

Litigation
Taking legal action through the courts.

Loan capital
Money borrowed by a person, usually a company.

Loan creditor
A person or organisation which has lent money.

Locus in quo*
The place where something took place.

Locus standi*
Person's right to take an action or be heard by a court.

M

Maintenance

Money paid to support a spouse (husband or wife) and children.

Majority

The age when a person gains full legal rights and responsibilities. In Ireland it is when a person becomes 18 years old.

Mala fides*

Bad faith.

Male issue

Male descendants of men.

Malfeasance

An unlawful act.

Malice

Intending to do something which is against the law.

Malicious falsehood

A written or spoken lie told to harm somebody and which does do harm.

Malicious prosecution

A prosecution which is brought unreasonably.

Mandamus*

High Court order commanding an individual, organisation, administrative tribunal or court to perform a certain action usually to correct an earlier action or failure to fulfil some duty.

Mandate

An authority to act given by one party to another.

Manslaughter

Killing someone illegally which is not murder.

Market overt†

A lawful market in which as long as someone buying goods is not aware that they do not belong to the seller the buyer will get a good title to the goods.

Martial law

Government of a country by the military.

Material facts

Facts which are a key part of a defence or a claim.

Matricide

The killing of a mother by her son or daughter.

Matrimonial home

The house that a husband and wife live in as a married couple.

Mediation

Form of alternative dispute resolution involving an agreed mediator acting as a facilitator to help the parties negotiate an agreement.

Memorandum and Articles of Association

The memorandum gives details of:

- a company's name,
- objects and
- share capital.
- the limits of the shareholders' liability if the company has to be wound up.

The articles set out the members' rights and the directors' powers.

Mens rea*

Guilty mind. Most crimes require proof of guilty intention before a person can be convicted.

Mercantile law

Law dealing with commerce.

Merchantable quality

The assumption in the law that goods sold by a business will be fit for their purpose.

Mesne Rates

Income lost by an owner when property is occupied without permission.

Messuage†

A house together with its land and outbuildings.

Minor

A person under the age of 18 years.

Minority

Under the age of full legal rights and responsibilities.

Minutes

A record of the meetings held by members, directors and others of organisations of companies.

Misadventure

An unexpected accident which happens while lawfully doing something.

Miscarriage of justice

The court system failing to give justice to a person.

Misconduct

Deliberately doing something which is against the law or which is wrong.

Misdirection

A judge instructing a jury wrongly.

Misfeasance

Improperly doing something which a person has a legal right to do.

Misjoinder
When a person has been wrongly named as a party to a law suit a court will usually amend the proceedings to strike out the name of the misjoined party.

Misrepresentation
A material statement which induces a party to enter into a contract.

Mistrial
A trial that has been made invalid.

Mitigation
Facts which while not negating an offence or wrongful action tend to show that the defendant may have had some excuse for acting the way he did.

Moiety
One half, fifty percent.

Molest/Molestation
Behaviour by a person which annoys or greatly troubles another person.

Money laundering
Making money from crime and then passing it through a business to make it appear legitimate.

Moratorium
An agreement not to take action for an agreed period of time.

Mortgage
Using property as security for a debt.

Mortgagee
The lender of the money which is secured by a mortgage.

Mortgagor
The person who borrows the money to buy a property.

Motive
Reason for a person doing something.

Muniments
Documents which are evidence of a right to something.

N

Natural justice
The requirement for application of principles of fairness and justice for example audi alteram partem* (hear the other side).

Natural person

Human being with legal and constitutional rights and duties, including the right to:

- life,
- information,
- travel,
- a good name,
- earn a living,
- sue and be sued,
- sign contracts,
- receive gifts, and
- appear in court either by himself or through a lawyer.

Naturalisation

Giving a citizen of one country citizenship of another.

Negligence

Carelessness.

Negligent

Lacking proper care to do a duty properly.

Negotiable instrument

A document which is signed and is an instruction to pay an amount of money.

Nemo jude in sua causa*

Nobody may be a judge in his own case.

Next of kin

Person's nearest blood relation.

Nolle prosequi*

Recorded decision not to prosecute further.

Non est factum*

Not his deed.

Nondisclosure

The failure by one side to a contract to reveal a fact to the other side that would influence their decision to go ahead with the contract.

Non-exclusive licence

An agreement giving someone the right to use something but which does not prevent other people being given similar agreements.

Nonfeasance

Not doing something that one is bound to do by law.

Non-joinder

If a person who should have been a party to legal proceedings has been omitted the court may amend the pleadings to include the non-joined party.

Not guilty

A court's verdict that the person charged with a crime did not commit it.

Not negotiable

Cannot be transferred.

Notary

A lawyer, usually a solicitor, who is authorised to certify documents, take affidavits and swear oaths.

Notice
A warning of something which is about to happen.

Notice to quit
A notice to end a tenancy on a stated date.

Novation
Replacing an existing agreement with a new one.

Nudum pactum*
An empty agreement.

Nuisance
Doing something that harms other people's rights.

O

Oath
Swearing the truth of a statement.

Obiter dicta*
By the way. Observations by a judge on law or facts not specifically before the court or not necessary to decide an issue.

Objects clause
A clause which forms part of a company's Memorandum of Association It sets out the purposes the company was formed for.

Obligation
A legal duty to do something.

Obligee
Someone who under a contract receives money or has something done.

Obligor
Someone who is bound by a contract to pay money or do something.

Occupational pension scheme
A pension scheme organised by an employer for its employees.

Occupier
The person who is in control of a piece of land such as a tenant.

Offensive weapon
An object that is intended to physically injure someone.

Offer
A promise to do something or not to do something.

Offeree
The person who receives a legally binding offer.

Offeror
The person who makes a legally binding offer.

Official secret
Information which the Government classifies as confidential.

Omission
A failure to do something.

Onus
Burden.

Oppression
The offence of public officials using their official positions to harm or injure people.

Option
A type of contract under which money is paid for a right to buy or sell property or goods at a fixed price by a particular date in the future.

Order
Formal written direction by a judge.

Originating summons
A summons that sets out the questions the court is being asked to decide.

Outlaw
A person who was not protected by the law.

Out-of-court settlement
Agreement between two persons to settle a matter before a court has heard the matter or given its decision.

Overt act
An act done openly.

P

Panel
The list of people who have been summoned for jury service.

Pardon
Releasing someone from a court's punishment.

Pari passu*
Equally.

Parole
Release from prison early.

Partition
Division.

Partnership
Two or more persons carrying on a business together.

Party
The plaintiff or defendant in a lawsuit.

Passing off
Pretending that the goods and services offered are those supplied by another business.

Patent
Exclusive privilege granted to an inventor to make, use or sell an invention for a period of years.

Patricide
The killing of a father by his own son or daughter.

Pawn
To pledge goods as security for a loan.

Payee
The person money is being paid to.

Payment into court
Money paid to the court by the defendant for payment to the plaintiff.

Payor
Person who makes a payment on a bill of exchange.

Penalty
A sum of money which has to be paid if the terms of a contract are broken or a punishment given to someone who commits a crime.

Penalty points
Points given as punishment for driving offences. If enough penalty points have been collected the offenders may have their driving licences taken off them.

Pendente lite*
During litigation.

Per*
Through or by.

Per pro*
On behalf of.

Per quod*
In accordance with or whereby.

Per quod servitium amisit*
By which he lost the service.

Per se*
In itself or by itself.

Per stirpes*
Describes property divided equally between the offspring.

Peremptory
An order which admits of no excuse for non-compliance.

Performance
Doing what is required under a contract.

Perjury
Deliberate lie under oath.

Perpetuity
Forever.

Personal guarantee
A pledge by a person to repay a debt owed if another fails to pay it.

Personal injury
An injury caused to a person.

Personal property
All property except land.

Personal representative

Person who administers the estate of a deceased person. Where a person dies without a will, the court appoints an administrator. A personal representative named in a will is called an executor.

Personalty

Personal property.

Personation

Pretending to be someone you are not.

Perverting the course of justice

Doing something to interfere with the justice system.

Petition

Formal written submission to court seeking redress of an injustice.

Picket

Peaceful public demonstration, on or near an employer's premises in furtherance of trade dispute.

Plaintiff

The person who goes to court to make a claim against someone else.

Plea

The defendant's answer to accusations.

Plea bargain

When the accused pleads guilty instead of not guilty in return for a concession by the prosecution.

Plead

To declare to the court whether you are guilty or not guilty.

Pleadings

Written claims delivered by one claimant to another setting out the facts and legal arguments supporting his position. High Court pleadings include:

- an Originating Summons,
- Statement of Claim,
- Defence,
- Counterclaim, and
- Reply.

Circuit Court pleadings include:

- a Civil Bill,
- a Defence,

District Court pleadings are:

- a civil summons,
- notice of intention to defend, and/or
- counterclaim.

Pledge

Letting someone take possession of goods but the ownership does not change.

Plenipotentiary

Someone who has been given complete authority to act.

Poaching
Taking game from someone else's land without permission.

Polygamy
Being married to more than one person at once.

Possess
To have property under your control.

Possession
Having something under your control.

Possessory title
Gaining title through possession sometimes referred to as “squatters title”.

Post-mortem
The examination of a dead body to establish the cause of death.

Power of appointment
A person giving another person the power to dispose of the first person's property.

Power of attorney
A document which gives power to the person appointed to act for the person who signed the document.

Practising certificate
Certificates showing a person is entitled to practise law. The Law Society issues these certificates to the solicitors who may practise law in Ireland.

Preamble
An explanation of a proposed law.

Precatory words
Words that express a wish, hope or desire rather than a clear command.

Precedent
Court judgment which is cited as an authority in a later case involving similar facts. Precedent cannot bind a higher court. A Circuit Court decision cannot bind a High Court judge. A Supreme Court judgment binds all courts although it does not bind that Court itself in future cases.

Precept
An order given by an official body or person.

Pre-emption
The right to buy property before others are given the chance to buy.

Preference
When insolvent paying one creditor while leaving other creditors unpaid.

Preference shares
A share entitled to a fixed dividend.

Preferential creditor
A creditor who has to be paid in full before unsecured creditors can be paid anything.

Prescription
Way of acquiring property rights, such as an easement, by long and continued use or enjoyment, commonly referred to as “squatters title”.

Prima facie*
On the face of it

Principal
Someone who authorises another person to act for them.

Private law
Domestic law which regulates the relationships between individuals and in which the State is not directly concerned.

Privilege
Special legal right such as a benefit, exemption, power or immunity.

Privity of contract
Only the parties to a contract can sue each other over breaches of contract.

Pro rata*
In proportion.

Pro tempore (pro tem)*
Temporary or for the time being.

Probate
Authority to deal with a dead person's estate.

Probate law
The law which regulates wills and other matters related to the distribution of a deceased person's estate.

Probate Registry
The registry which deals with the forms which are needed when someone applies for probate.

Probation
If a court convicts someone of an offence, the Judge may order that the offender is supervised by a probation officer for a period of time.

Process
A process is a summons or writ which is used to order someone to appear in court; the whole of a case from beginning to end.

Procurator
A person who has been given authority to manage another person's affairs such as under a power of attorney.

Product liability
The liability of manufacturers and sellers to compensate people for unsafe goods which have caused injury to people or property.

Profit à prendre†
Profit to be taken from land.

Prohibition
Legal restriction on the use of something or on certain conduct.

Promisee
A person who has been promised something.

Promisor
A person who has promised something.

Promissory note
A written promise to pay an amount of money to someone at a given time.

Property
Property is something which belongs to a person and over which he has total control.

Prosecution
Team of people bringing proceedings against someone else.

Prospectus
Document or notice in which a company sets out details of a proposed share or bond issue.

Prostitution
Selling sexual services for money.

Proviso
A clause in a legal document which qualifies another section of the agreement.

Provocation
Causing someone to lose their self-control by doing or saying something which would cause a reasonable person to temporarily lose their self-control.

Proxy
A person appointed by a shareholder to go to a meeting of shareholders.

Proxy form
A form for shareholders by which if it is delivered to a company before the shareholders' meeting the person who is the proxy will be able to vote at that meeting.

Public mischief
Something that someone does which damages the general community.

Public nuisance
A crime by which the general public is put in danger or suffers damage to its health, property and so on.

Punitive damages
Exceptional damages ordered by a court where an act or omission was of a particularly serious, extensive or malicious nature.

Putative father
The man found by a court to be the father of a non-marital child.

Q

Quango
An organisation set up by the Government to do a particular activity. It is partly independent and does not form part of the Government.

Quantum meruit*
As much as he has deserved.

Quantum*
Amount or extent.

Quid pro quo*
Something for something.

Quiet enjoyment
Allowing a tenant to use land without interference.

Quiet possession
Using property without interference.

Quo warranto*
By what authority.

Quorum*
The lowest number of qualifying people needed for a meeting to be able to make a decision.

R

Racial discrimination
Treating someone less favourably because of their race, colour, nationality or culture.

Rack rent
The full market value rent of a property.

Rape
Having sex with a person without their permission or forcing them to have sex against their will.

Ratio decidendi*
The reason for the decision.

Real
Relating to immovable property such as buildings or land.

Real estate
Land owned by someone who has died.

Real property
Land and buildings, minerals in the land and rights over the land.

Realty
Real property.

Reasonable force
Necessary force.

Rebuttable presumption
Presumed fact based on the proof of other facts.

Receiver
Someone appointed to sell assets to raise money to repay lenders.

Receiving
Gaining control of stolen property.

Recognisance
An undertaking, given by someone to a court, to make sure that they do what the court requires.

Record
The documents in a court case from beginning to end.

Recovery
Regaining possession of land by taking court proceedings.

Redemption
Paying off all the money borrowed.

Redundancy
Being dismissed from a job because it no longer exists.

Registered land
Title of land recorded in the Land Registry.

Registered office
The official address where documents can be served on a company.

Registrar of Companies
An official in charge of the office which keeps records of registered companies.

Reinsurance
An insurance company insuring part of a risk it is covering.

Release
- To give up a valid claim against someone;
- to free someone from prison; or
- a document used to cancel a claim one person has against another.

Remainder
An interest which starts when a previous interest finishes.

Remand

Being kept in prison or paying bail. If an accused person is placed on remand they are either kept in prison for a short period or have to pay bail or get someone to pay it for them.

Remedy

Using the law to get compensation for damage done or for rights infringed.

Renouncing probate

A proposed executor refusing to act.

Rent

Money or other consideration paid by a tenant to a landlord in exchange for the exclusive possession and use of land, buildings or part of a building.

Repeat offender

A person who continues to commit the same offence.

Replevin

Legal action to recover goods.

Reply

A plaintiff's answer to a claim. In a civil case the defendant may offer a defence to the claim and make a counterclaim.

Repossession or repossess

A mortgagee recovering vacant possession of the property mortgaged.

Representation

- Acting on behalf of someone else, such as a Solicitor acting for a client;
- taking someone else's place such as when a court gives an executor the right to deal with a dead person's affairs; or
- a statement in a contract.

Representative action

One or more people in a group of people with the same grievance taking legal action representing the group.

Reprieve

A judge suspending or cancelling punishment for an offence.

Res ipsa loquitur*

Proof is not needed because the facts speak for themselves.

Rescission

The cancellation of a contract.

Reservation of title

A contract which leaves ownership of the goods with the seller until the goods have been paid for.

Reserved costs
Apportionment of payment of legal fees to be decided at a later stage.

Reserved judgment
Decision to be given at a later date.

Reserves
Money set aside in accounts which can be spent in later years.

Residence
Place where someone usually lives.

Residuary legacy
What remains to be given out from an estate after all debts, taxes and specific legacies have been paid.

Residue
What is left of an estate after all debts, taxes, expenses and specific legacies have been dealt with.

Resisting arrest
A person trying to prevent a Garda arresting him.

Resolution
A decision taken by the members of a company in a meeting.

Respondent
Person against whom a summons is issued, or a petition or appeal brought.

Restitutio in integrum*
Restoration to the original position.

Restitution
An order for the return of stolen goods to the victim of the theft or for compensation to be paid to the victim.

Restraining order
An order which a court may issue to prevent a person from doing a particular thing.

Restriction
When placed on a piece of land the owner cannot sell or mortgage the land.

Restrictive covenant
A deed which restricts how a piece of land can be used.

Resulting trust
Trust which comes into being when an express trust fails.

Retainer
A payment to a lawyer to act in a case.

Retention of title
Reservation of title.

Reversion
Future interest in property retained by a transferor or his heirs.

Revocation
Cancellation.

Revoke
To cancel or withdraw.

Revolving credit agreement
A loan agreement under which a person can borrow again to top up the loan, as long as they do not go over their credit limit.

Rider
Addition attached to a completed document.

Right of way
A legal right obliging the owner of land to allow authorised people to cross it.

Rights issue
An issue of extra shares by a company.

Riot
A gathering of people using, or threatening to use, violence to achieve a common end.

Riparian rights
Rights of owners of land on a river bank.

Robbery
Using or threatening to use force while carrying out a theft.

S

Sale or return
An arrangement under which goods can be kept by the potential buyer for a period while their resale is attempted.

Salvage
Compensation paid by the owners for saving ships, aircraft and property from the sea.

Sanction
To ratify, to approve or to punish.

Satisfaction
- Paying a debt;
- settling an obligation by an act; or
- settling an obligation by substituting something satisfactory for what was originally required.

Scheme of arrangement
An agreement between a person with debts who cannot pay them when they are due and the creditors.

Scienter*
Knowledge.

Scrip
A certificate showing the extra shares and fractions of shares the owner is entitled to.

Scrip dividend
A dividend paid in shares instead of cash.

Scrip issue
Free shares offered to the members of a company in proportion to their shareholdings.

Search
Inspection of the registers maintained by organisations such as the Land Registry.

Search warrant
Written order normally issued by a judge or Peace Commissioner giving Gardaí permission to enter private property, to search for and seize evidence of the commission of a crime, the proceeds of crime or property that they suspect may be used to commit a crime.

Securities
Stocks, shares, debentures and so on where there is a right to receive interest or dividends from the investment.

Security
Something of value pledged by a borrower.

Security of tenure
Protection from a landlord attempting to obtain possession of the property the tenant is renting.

Sedition
Writing things or saying things which encourage people to rise up against the Government.

Seisin*
Actual or constructive legal possession.

Senior Counsel
Barrister who has taken silk or who has been called to the Inner Bar.

Sentence
The penalty a court imposes on someone found guilty of an offence.

Separation order
A court order that a husband and wife can live separately.

Sequestration
Temporary confiscation of property by court order until the owner purges his contempt by obeying an earlier court order.

Service
Delivery of court documents by one party to the other.

Servient tenement
Land subject to an easement.

Settle
Means to:
- create a settlement;
- end a case by agreement; or
- draw up a contract and agree its terms.

Settlement

When property is given, usually by a will or a deed, on a trust for the benefit of people decided by the settlor.

Settlor

The person who gives property to a settlement.

Several

Separate.

Shadow director

A person who has not been appointed a director of a company but nevertheless gives instructions to the directors which they comply with.

Share capital

The money invested directly in a company by its members.

Share certificate

A document which certifies who owns shares in a company.

Share premium account

An account in a set of books recording the extra amount over face value that shares have been issued for.

Share

A portion of a company. A share certificate constitutes proof of share ownership.

Sheriff

A court officer, usually a County Registrar, who may seize goods.

Shoplifting

Stealing goods from a shop.

Silent partner

Person who invests in a company or partnership shares in the profits or losses but takes no part in administering or directing the organisation.

Simpliciter*

Simply.

Sine die*

Indefinitely.

Slander

Saying something untrue about a person.

Slander of title

Falsely and maliciously denying someone's title to property including real property, a business or goods.

Small Claims Court

A section of the District Court which deals with small claims. There is a simplified way of making a claim where the claim is for no more than €1269.77 (as at September 2003).

Smuggling
Importing or exporting goods illegally to avoid a ban on them or to avoid the duties on them.

Sold note
A note that shows details of investments which have been sold, including the sale price and any charges taken. Stockbrokers produce sold notes for their clients.

Soliciting
A prostitute attempting to get clients in a street or other public place.

Solicitor
A lawyer who can deal with any legal matter, give advice and appear in court. All solicitors are listed on the Roll of Solicitors kept by the Law Society of Ireland. Solicitors can appear for their clients in all the Courts in Ireland and can be appointed judges to all of them.

Special Criminal Court
Non-jury court with three judges set up to deal with terrorist offences.

Special resolution
A resolution which must be approved by holders of at least 75% of the shares with voting rights.

Specific performance
A court order to complete a contract.

Squatter
A person who occupies land illegally.

Stalking
A form of harassment where a person is made to feel alarmed or distressed by another person's actions.

Stamp duty
A tax on the transfer documents for certain types of transaction.

Stare decisis*
To stand by decisions. Policy whereby once a court has made a decision on a certain set of facts lower courts must apply that precedent in subsequent cases which embody the same facts.

Statement of claim
The claimant's written statement setting out the claim in a civil case in the High Court.

Status
How the law regards a person such as whether the person is a minor or a bankrupt.

Statute
An Act of the Oireachtas (Dáil and Seanad).

Statute book
All the existing statutes in a country.

Statute law
The law created by the Oireachtas.

Statute of limitations
A statute which sets out the time limits within which a court action must take place.

Statutory accounts
Company accounts which have been filed with the Registrar of Companies.

Statutory audit
An audit required by law. Certain companies have to have their accounts audited by suitably qualified accountants.

Statutory books
Books of account which companies must keep by law to show and explain all their transactions.

Statutory instrument
A power delegated by the Oireachtas to make or amend laws of a subsidary nature.

Stay of execution
The suspension of the carrying out of a court order.

Stockbroker
A person who buys and sells stocks and shares for clients.

Strict liability
Liability without need to prove wrongful intent, negligence or fault.

Sub judice*
Something being dealt with by a court which cannot be discussed outside the court.

Subduct
To withdraw.

Subject to contract
An agreement which is not binding until a contract has been signed.

Subpoena
A summons or order requiring the person to whom it is addressed to attend at a court on a specific date and at a stated time.

Subrogation
Substitution of one person or thing for another by operation of law without the agreement of the person from whom the rights are transferred.

Subscribers
The people who set up a limited company.

Subsidiarity
Subsidiary activities.

Subsidiary
A company controlled by another company.

Substituted service
If a party appears to be avoiding service of legal documents, a court may be asked to direct that instead of personal service documents can be served by post or in some other way.

Successor
Person who takes over the rights or property of another.

Sue
To start legal proceedings in the civil court against someone.

Sui generis*
Something that belongs in a particular category or is the only one of its class.

Sui juris*
Someone who can enter into a contract without any restriction.

Suicide
The act of killing oneself intentionally.

Suit
Proceedings brought by one person against another in a civil court.

Summary judgement
Obtaining judgement without a trial.

Summary offence
An offence that can be tried by a District Court judge.

Summary proceedings
A trial by a District Court judge, where the defendant has the right to choose which court should hear the case, but has agreed to be tried in the District Court.

Summary trial
A trial by a District Judge.

Summing up
The judge's summary of a case.

Summons
Written command to a person to appear in court.

Superior courts
The High and the Supreme Courts.

Supra*
See above or before in the document.

Supreme Court
Final court of appeal in Ireland, headed by the Chief Justice.

Surcharge
A penalty charged if tax is paid late.

Surety
Someone who takes responsibility for someone else's debts or promises, and guarantees that they will be paid or done.

Surety
Person who has pledged himself by deed to ensure that another person fulfils an obligation – such as appearing in court or paying back a loan.

Suspended sentence
A sentence that is postponed until the offender is convicted of another offence.

T

Tangible asset
An asset which can be physically touched.

Tangible property
Property that physically exists.

Tax
Money raised by the Government to pay for the services it provides.

Tax avoidance
Reducing tax bills by using legal means.

Tax evasion
Breaking the law to reduce tax bills.

Tax point
The date when Value Added Tax arises on goods or services supplied or made available to a customer.

Taxable supply
Supplying goods and services on which Value Added Tax can be charged.

Taxation
The levying of taxes.

Taxation of costs
The scrutiny of a Solicitor's bill to a client. The scrutiny is done by a court officer known as a taxing master.

Teeming and lading
To hide the loss of cash received from one customer by using cash from other customers to replace it.

Tenancy in common
Tenants-in-common share property rights, but may hold different parts of a piece of land or unequal shares.

Tenant
Person to whom a landlord grants temporary and exclusive use of land or a building, usually in exchange for rent.

Tender
Supplying a price for a job. If an organisation asks firms to send in tenders for supplying something they are asking for firm written offers to do the work to an agreed standard and at a stated price.

Tenement
Property held by a tenant that could be subject to rights in his favour.

Tenure
How a piece of land is held by the owner.

Term
A clause which form part of a contract.

Terra*
Land.

Terrorism
Using violence for political purposes.

Testament
A will.

Testator
A person who makes a will.

Testify
Give evidence.

Testimony
The evidence a witness gives in court.

Theft
Taking someone else's property dishonestly with the intention of never returning it.

Threatening behaviour
Using threats, abuse or insults against another person.

Timeshare
An arrangement where people can buy a share in part of a property for a period of time in each year.

Title
The right to own something.

Title deeds
The documents which prove who owns a property and under what terms.

Toll
A payment in return for being allowed to travel over a road, bridge and so on.

Tort†
Doing something which harms someone else. Torts include wrongs such as:
- negligence,
- nuisance,
- defamation,
- false imprisonment, and
- trespass.

Tortfeasor
Someone who commits a tort.

Tracing
Equitable right of a plaintiff to reclaim specific property, through the court, where the property has passed on to others.

Trademark
A mark which is registered at trademark registries and which is used on products produced by the owner.

Transcript
The official record of a court case.

Transferable securities
Securities such as debentures which can have their ownership changed.

Transferee
Person who receives property being transferred.

Transferor
The person who transfers something to someone else.

Treason
The crime of betraying your country.

Treasure trove
Treasure found in a hiding place and whose owner cannot be traced.

Trespass
Unlawful interference with another person or his property or rights.

Trespassing
Going on land without the owner's permission.

Trial
An examination of the evidence in a case and the law which applies.

Tribunal
A body set up to act like a court outside the normal court system. A forum to hear disputes and with the authority to settle them

Trust
A financial arrangement under which property is held by named people for someone else.

Trust corporation
A company which acts as a trustee and holds trust assets.

Trust deed
A legal document which is used to create, change or control a trust.

Trustee
A person who holds property and looks after it on behalf of someone else.

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U

Uberrimae fidei*
Of the utmost good faith.

Ultra vires*
Beyond one's powers.

Underlease
The lease of a property by a tenant of the property to someone else.

Undertaking
A promise which can be enforced by law.

Undue influence
Unfair pressure which may invalidate a contract.

Unfair contract terms
Prevents a party to a contract unfairly limiting their liability.

Unfair dismissal
Sacking an employee unfairly.

Unit trust
A trust which manages investments.

Unjust enrichment
Profit unjustly obtain by a wrongdoer.

Usury
Excessive or illegal interest rate.

Unreasonable behaviour
Behaviour by a married person that justifies the other partner in the marriage living apart.

Unregistered company
A company which is not registered under the Companies Acts.

Unregistered land
Land which is not recorded in the Land Registry.

Unsecured creditor
Someone who has lent money without getting any security for the loan.

V

Variation
Alteration of the terms of court order.

Vendee
A person who buys something.

Vendor
A person who sells something.

Verdict
The jury's decision at the end of a case.

Vexatious litigant
A person who regularly brings court cases which have little chance of succeeding.

Vicarious liability
Where someone becomes responsible under the law for wrongs done by someone else.

Videlicet*
That is to say.

Void
Without legal effect.

Voidable
Able to be cancelled in certain circumstances.

Voire dire†
To speak the truth.

Volenti non fit injuria*
Those who consent may not be injured.

Voluntary arrangement
An agreement between a debtor and the creditors.

W

Waiver
Renunciation of a right or benefit.

Ward of court
A person who is protected by the High Court such as a minor.

Warrant
A certificate which gives the person holding it the right to buy shares at a given price; a Judge's written instruction to arrest someone or to search a property.

Warrant
(Bench Warrant) – An order issued by a judge for the arrest of a person, usually someone who has failed to turn up in answer to a summons.

Warranty
A term in a contract.

Waste
Abuse, destruction or permanent change to property by a person who is merely in possession of it such as a tenant.

Wayleave
A right through or over a piece of land often for a particular purpose, such as for a pipeline.

Will
A legal document which people use to leave as a gift money and property when they die.

Winding up
Disposing of all a company's assets and paying all its debts.

Without prejudice
The document may not be used as evidence that a contract or agreement exists.

Witness
Someone who watches a signature being put on a document, and then signs as well to verify the signature's authenticity; or attends court to testify about events they know about

Words of art
Words which have a fixed meaning in law so that their use in a legal document can have only one interpretation.

Words of limitation
Words in a conveyance or will which limit the duration of an estate.

Words of purchase
Words in a conveyance or will which specifically name the person to whom land is being transferred.

Writ of execution
A type of writ used when a court judgement needs enforcing.

Writ
A summons or order from a court of law.

Wrongful dismissal
Ending an employee's contract without following the contract's terms.

Wrongful trading
Continuing to trade while knowing that there is little prospect of the company being able to pay its debts.

Y

Year
When used without any other qualification a 12-month calendar period beginning on 1st January.

Young offender
A person between the ages of 14 and 17 who has committed a crime.

Young person
Person under 18 years.

Z

Zero hours
None, Nil.

National Adult Literacy Agency
An Áisíneacht Náisiúnta Litearthachta do Aosaigh

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What is the National Adult Literacy Agency?

The National Adult Literacy Agency (NALA) is a non-profit membership organisation, concerned with national co-ordination, training and policy development in adult literacy work in Ireland. The Agency was established in 1980 and from that time has campaigned for recognition and response to the adult literacy problem in Ireland.

NALA receives a grant from the Department of Education and Science, which enables the Agency to staff national and regional offices. In addition, the Department of Social, Community and Family Affairs provide NALA with a grant towards staffing and publicity costs. The Department of Health and Children and FÁS also fund specific development work.